

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Application No. 17279 of Stephanie Peters and Charles Fishman** pursuant to 11 DCMR § 3104.1, for a special exception to allow a two-story rear addition to an existing single-family row dwelling under section 223, not meeting the lot occupancy (section 403) and rear yard (section 404) requirements, in the R-5-B District at premises 2604 Mozart Place, N.W. (Square 2579, Lot 19).

Note: The application was amended to eliminate the need for a variance from the floor area ratio requirements under section 402, and the nonconforming structure provisions (subsection 2001.3) allowed under section 223.

**HEARING DATE:** February 1, 2005  
**DECISION DATE:** February 1, 2005 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1C, which is automatically a party to this application. ANC 1C submitted a report in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted being in harmony with the general purpose and intent of the Zoning

Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

**VOTE:**        **5-0-0**        (Geoffrey H. Griffis, John A. Mann II, Curtis L. Etherly, Jr., Ruthanne G. Miller, and Kevin L. Hildebrand to approve).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this order.

**ATTESTED BY:**

  
\_\_\_\_\_  
**JERRILY R. KRESS, FAIA**  
Director, Office of Zoning

**FINAL DATE OF ORDER:** FEB 02 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA APPLICATION NO. 17279**

As Director of the Office of Zoning, I hereby certify and attest that on FEB 02 2005 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Allen Neyman, AIA  
8555 16<sup>th</sup> Street, N.W.  
Silver Spring, Maryland 20910

Chairperson  
Advisory Neighborhood Commission 1C  
P.O. Box 21652  
Washington, D.C. 20009

Single Member District Commissioner 1C06  
Advisory Neighborhood Commission 1C  
P.O. Box 21652  
Washington, D.C. 20009

Jim Graham, City Councilmember  
Ward One  
1350 Pennsylvania Avenue, N.W., Suite 406  
Washington, D.C. 20004

Toye Bello, Zoning Administrator  
Building and Land Regulation Administration  
Department of Consumer and Regulatory Affairs  
941 N. Capitol Street, N.E.  
Washington, D.C. 20002

Ellen McCarthy, Deputy Director  
Office of Planning  
801 North Capitol Street, N.E., 4<sup>th</sup> Floor  
Washington, D.C. 20002

Alan Bergstein, Esq.  
Office of the Attorney General  
441 4<sup>th</sup> Street, N.W., 6<sup>th</sup> Floor  
Washington, D.C. 20001

rsn

ATTESTED BY:

  
\_\_\_\_\_  
**JERRILY R. KRESS, FAIA**  
**Director, Office of Zoning**